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OFFICE OF PETITIONS

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In re Application of
Hu et al.
Application No. 09/684,808
Filed: October 6, 2000
Attorney Docket No. PSTMOOO8/MRK

DECISION GRANTING LETTER

This decision is in response to Applicants' 'APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" informing the Office of a discrepancy in the Patent Term Adjustment (PTA) calculated by the Office at the time of the NOTICE OF ALLOWANCE. Applicants assert that they are entitled to a PTA determination of 1239 days. The Office thanks applicants for their good faith and candor in bring this matter to the attention of the Office.¹

Applicants letter concerning PTA is **GRANTED-in part.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect this decision. The proper amount of PTA at the time of the mailing of the notice of allowance is 1239 days.

Applicants assert that the Office erred in the determination in that the Office failed to reduce the PTA for an overdue reply to the Notice of Missing Parts. Applicants acknowledge that the Office mailed a Notice to File Missing Parts on December 14, 2000 that was responded to by applicants on April 9, 2001. Applicants acknowledge that the Office did not meet the requirement of 37 CFR 1.704(b) by a period of 26 days. Applicants allege that the reduction should have begun on March 15, 2001, the day after the date that is three months after the date of the mailing of the Office communication and should have ended on April 9, 2001, the date that the reply was actually filed.

A review of applicants' arguments are persuasive to the extent herein indicated. The imaged file history reflects that the Office mailed the Notice to File Missing Parts of Non-Provisional on on

¹The Office notes that applicants submitted this request for reconsideration as a request for reconsideration under 37 CFR 1.705(b) and submitted a \$200.00 fee for consideration. The Office notes that it is considering this document as a Letter of Good Faith and candor because applicants are requesting that the Office reduce the determination of PTA rather than increase the determination of PTA. The Office notes that the submission of a Letter of Goof faith and candor regarding this determination does not require the submission of a fee.

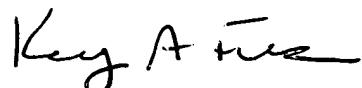
December 6, 2000². A reduction of 34 days should have been assessed. However, the notice was not entered into PALM and accordingly the PTA determination did not reflect this reduction pursuant to 37 CFR 1.704(b). Accordingly, at the time of the mailing of the notice of allowance the Office had delays of 1331 days. The delays by the Office were 1236 days pursuant to 37 CFR 1.702(a)(1) and 95 days pursuant to 37 CFR 1.702(a)(2). Applicants delay by periods of 2,4, 60, and 34 days pursuant to 37 CFR 1.704(b). Thus the proper determination at the time of the mailing of the notice of allowance is 1231 days (1331-100=1231).

After the mailing of this decision, the Office will forward this patented file to the Office of Patent Publications for a prompt issuance of the patent.

Any delays in the failure to issue this application within four months of the payment of the issue fee as required in 37 CFR 1.702(a)(4) will be reflected on the issue notification letter that is mailed to applicants approximately three weeks prior to issue date. Any in addition any delays by applicant for reductions under 37 CFR 1.704(c)(10) will be reflected in the PTA determination that is provided to applicant in the issue notification letter.

Because applicants were providing good faith and candor notice as to the amount of PTA, no fee is being assessed. The Office on August 7, 2007 improperly assessed a \$200.00 fee. The fee is being refunded to deposit account No 50-1574.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.



Kery Fries
Senior Legal
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted PTA calculation

²The Office believes that applicants errantly without deceptive intent cited the wrong date in this letter of good faith and candor. Applicant mentioned the date of mailing of the notice by the Office was December 14, 2000 rather than the scanned image date of December 6, 2000.

Day : Tuesday
 Date: 12/11/2007

Time: 14:17:40

PALM INTRANET

PTA Calculations for Application: 09/684808			
Application Filing Date:	10/06/2000	PTO Delay (PTO):	1331
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	66
Post-Issue Petitions:	0	Total PTA (days):	1231
PTO Delay Adjustment:	-34		

File Contents History						
Number	Date	Contents Description	PTO	APPL	START	
82	12/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		68		
81	12/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	34			
69	05/08/2007	MAIL NOTICE OF ALLOWANCE	95		54	
68	05/08/2007	MAIL EXAMINER'S AMENDMENT				
67	05/04/2007	ISSUE REVISION COMPLETED				
66	05/04/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED				
65	05/04/2007	DOCUMENT VERIFICATION				
64	05/04/2007	EXAMINER'S AMENDMENT COMMUNICATION				
63	02/28/2005	REFERENCE CAPTURE ON IDS				
62	08/08/2001	REFERENCE CAPTURE ON IDS				
61	08/22/2001	REFERENCE CAPTURE ON IDS				
60	08/08/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
59	12/10/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
58	04/30/2007	NOTICE OF ALLOWABILITY				
57	06/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED				
56	10/02/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)				
55	10/08/2006	DATE FORWARDED TO EXAMINER				
54	10/02/2006	RESPONSE AFTER NON-FINAL ACTION	60	50		
53	10/02/2006	REQUEST FOR EXTENSION OF TIME - GRANTED				
52	06/16/2006	REFERENCE CAPTURE ON IDS				
51	06/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				

50	05/03/2006	MAIL NON-FINAL REJECTION			
49	05/01/2006	NON-FINAL REJECTION			
48	02/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	07/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	04/13/2006	CORRESPONDENCE ADDRESS CHANGE			
45	02/21/2006	REFERENCE CAPTURE ON IDS			
44	02/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	02/24/2006	DATE FORWARDED TO EXAMINER			
42	02/21/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	02/24/2006	DATE FORWARDED TO EXAMINER			
40	02/21/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		4	37
39	02/24/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	02/21/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	11/17/2005	MAIL FINAL REJECTION (PTOL - 326)			
36	11/15/2005	FINAL REJECTION			
35	07/27/2005	REFERENCE CAPTURE ON IDS			
34	08/12/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
33	07/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	31
32	08/12/2005	DATE FORWARDED TO EXAMINER			
31	07/27/2005	RESPONSE AFTER NON-FINAL ACTION		2	30
30	04/25/2005	MAIL NON-FINAL REJECTION	1236		-1
29	04/18/2005	NON-FINAL REJECTION			
28	04/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	11/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	11/04/2002	CASE DOCKETED TO EXAMINER IN GAU			

10	08/22/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/17/2001	APPLICATION DISPATCHED FROM OIPE			
8	04/17/2001	CORRESPONDENCE ADDRESS CHANGE			
7	04/16/2001	APPLICATION IS NOW COMPLETE			
6	12/14/2000	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
5	12/04/2000	CORRESPONDENCE ADDRESS CHANGE			
4	12/04/2000	CORRESPONDENCE ADDRESS CHANGE			
3	12/04/2000	CORRESPONDENCE ADDRESS CHANGE			
2	11/17/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/06/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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